



11363 San Jose Blvd, Suite 301
Jacksonville, FL 32223

Telephone
FAX

10/100 sent to AG for review
11/100 Wayne submitted new Sublicense agreement. Basically the same - will wait for Diane's comments

AUTHORIZED SUBLICENSE AGREEMENT

2/11/00 per Wayne, Pat Chara reviewed - she made a few comments. Wayne will address her comments.

VAR NAME AND ADDRESS	CUSTOMER NAME

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PRODUCT CODE	SOFTWARE PRODUCT	RELEASE NUMBER	MAX. USERS

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Check One

ACCEPTED: _____
REJECTED: _____

APPX:

BY: _____

PRINT NAME: _____

PRINT TITLE: _____

DATE: _____

For purposes of this Sublicense, the term "Specified CPU" means the following computer hardware:

Manufacturer _____

CPU Location _____

Registration # _____

Model: _____

CPU Serial # _____

Network ID: _____

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1. **REGISTRATION.** VAR is obligated to install a permanent registration for Customer. Installation of the registration information is required in order to enable operation of the Authorized Software. Thereafter, each time the Authorized Software is operated, the screen will display the registered Customer's name. If Customer's name does not appear as the registered Customer, Customer should immediately notify VAR and APPX. If Customer has not received a permanent registration within 60 days of installation, Customer should immediately notify APPX.

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20. **SIGNATORY AUTHORITY.** Each individual who executes this Agreement on behalf of a party hereto hereby certifies that he has been duly authorized to execute this Sublicense by and on behalf of such party.

IN WITNESS WHEREOF, Customer and VAR have executed this Sublicense on the dates indicated below.

VAR:

Signature: _____

Print Name: _____

Title: _____

Date: _____

CUSTOMER:

Signature: _____

Print Name: _____

Title: _____

Date: _____

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APPX SOFTWARE, INC.
AUTHORIZED SUBLICENSE

VAR: _____
ADDRESS: _____

CUSTOMER: _____
ADDRESS: _____

Effective this _____ day of _____, 19____ (the "Sublicense Date"), VAR has agreed, subject to the following terms and conditions, to sublicense to Customer certain computer software products licensed to VAR by APPX Software, Inc., a Virginia corporation ("APPX"). For purposes of this Sublicense, the term "Authorized Software" includes certain computer software installed on _____, 19____ (the "Installation Date"), plus related documentation furnished by APPX, including but not limited to user manuals, technical manuals, system manuals, and keyboard function strips AS FOLLOWS:

PRODUCT CODE	SOFTWARE PRODUCT	RELEASE NO.
_____	_____	_____
_____	_____	_____
_____	_____	_____

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Check One) _____
ACCEPTED _____ REJECTED _____
APPX
BY: _____
PRINT NAME: _____
PRINT TITLE: _____
DATE: _____

For purposes of this Sublicense, the term "Specified CPU" means the following computer hardware:

Manufacturer _____	Model _____
CPU Location _____	
Site # (1,2,3,) _____	CPU Serial No. _____ Network I.D. _____ Previous Registration # _____

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11. **Termination.** This Sublicense may be terminated by APPX or VAR for breach. In the event of termination, the sublicense rights granted to Customer shall immediately terminate, and Customer shall immediately return all existing copies of the Authorized Software to VAR (or such substitute Person as APPX may designate) and certify in writing that all copies or partial copies of the Authorized Software have been returned or destroyed. The obligations and remedies of the parties regarding confidentiality of Authorized Software shall survive termination of this Sublicense.

12. **Assignment.** Customer may not assign, sell, mortgage, pledge, or in any manner transfer any or all of its interest in this Sublicense or in the Authorized Software product, without APPX's prior written consent. This Sublicense shall automatically and immediately terminate in the event that this Sublicense or any interests hereunder are assigned or in any manner transferred to any third party, whether voluntarily or by operation of law, without APPX's prior written consent.

13. **Choice of Law and Forum; Attorneys' Fees; Waiver of Jury Trial.** This Sublicense shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia (excluding choice-of-law rules). Any dispute arising under this Sublicense which cannot be resolved by agreement shall, whenever diversity or subject matter jurisdiction exists, be submitted to the United States District Court for the Eastern District of Virginia, Richmond Division, and the parties consent and submit to the personal jurisdiction of such court. The prevailing party in any litigation, arbitration, or other proceedings arising out of this Sublicense shall be reimbursed for all reasonable costs and expenses incurred in such proceedings, including reasonable attorneys' fees. APPX, VAR, AND CUSTOMER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS SUBLICENSE OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (ORAL OR WRITTEN), OR ACTIONS OR OMISSIONS OF APPX, VAR, OR CUSTOMER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR APPX AND VAR ENTERING INTO THIS AGREEMENT.

14. **Equitable Relief.** If Customer attempts to use, copy, disclose, or transfer any portion of the Authorized Software or any modification thereof in a manner contrary to the terms of this Sublicense or in derogation of APPX's rights, whether those rights are explicitly stated, determined by law, or otherwise, APPX shall have the right, in addition to any other legal remedies available, to injunctive relief enjoining such acts, it being acknowledged that other remedies are inadequate.

15. **Entire Agreement.** This Sublicense constitutes the entire agreement between the parties relating to the Authorized Software.

16. **Severability.** If any term, covenant, condition, or provision, or portion thereof, of this Sublicense is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Sublicense shall be in full force and effect and shall in no way be affected, impaired or invalidated.

17. **Nonwaiver.** Waiver by one party of any breach of any provision of this Sublicense shall not operate or be construed as a waiver by that party of any subsequent breach.

18. **Effect of Headings; Cases and Gender.** The headings used in this Agreement are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provisions of this Agreement. For all purposes of this Agreement, any reference to the singular shall include the plural and any reference to one gender shall include the other.

19. **Signatory Authority.** Each individual who executes this Agreement on behalf of a party hereto hereby certifies that he has been duly authorized to execute this sublicense by and on behalf of such party.

IN WITNESS WHEREOF, Customer and VAR have executed this Sublicense on the dates indicated below.

VAR:

CUSTOMER:

300841

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

ADDENDUM NO. 1 TO APPX SOFTWARE, INC.
AUTHORIZED SUBLICENSE

This ADDENDUM NO. 1, made this 12th, day of July, 1994, by and between the State of Hawaii, hereinafter referred to as "Customer", acting by and through its Director of Finance, and THE LANGE GROUP, and APPX SOFTWARE INC., hereinafter referred to as "APPX".

1. Paragraph 2.a., third sentence is modified to read as follows: "Customer shall not disclose or transfer any copy of any portion of any authorized software to any person, except as specifically authorized by law."

2. Paragraph 3.c., third sentence is modified to read as follows: "In any legal proceeding initiated by Customer pursuant to this paragraph, APPX may assume the prosecution of such proceeding if APPX and Customer deems that its interest so require. Customer will cooperate with APPX in any proceeding prosecuted by APPX in protection of APPX's interest under this Section, at APPX's expense."

3. Paragraph 7., second bullet is modified to read as follows:


- o Customer permits APPX to defend, compromise, or settle such claim and gives APPX all available information, assistance, and authority to enable APPX to do so, at APPX's expense.


4. Paragraph 13., sentences 1, 2 and 3 are modified to read as follows: "This Sublicense shall be governed by, and construed in accordance with, the laws of the State of Hawaii (excluding choice-of-law rules). Any dispute arising under this Sublicense which cannot be resolved by agreement shall, whenever diversity of subject matter jurisdiction exists, be submitted to the United States District Court for the State of Hawaii, located in Honolulu, Hawaii. The prevailing party in any litigation, arbitration, or other proceedings arising out of this Sublicense shall be reimbursed for all reasonable costs and expenses incurred in such proceedings, excluding attorneys' fees."

5. No other terms and conditions of the APPX Software, Inc. Authorized Sublicense are amended or altered in any respect, and all terms, conditions and provisions of the APPX Software, Inc. Authorized Sublicense, unless specifically modified, altered or changed herein, shall remain in full force and effect.

APPX SOFTWARE, INC.

STATE OF HAWAII


By 
Its DIRECTOR OF FINANCE & ADMINISTRATION


By 
Its Deputy Director

THE LANGE GROUP

APPROVAL AS TO FORM:

300842

By 
Its Manager

By 
Its Deputy Attorney General

Wayne -

Per your request -
APPX Contract.

Sam Lindsay

WAREHOUSE PRODUCT **RELEASE NO.**

THIRTY (30) DAYS OF THE INSTALLATION DATE, VAR HAS SUBMITTED THIS
 SATED SUBLICENSER REPORT AND THE REQUIRED SUBLICENSER FEE. FAILURE
 TIMELY AND PROPERLY SUBMITTED SHALL BE DEEMED ACCEPTANCE.

APPX
BY: _____
PRINT NAME: _____
PRINT TITLE: _____
DATE: _____

ACCEPTED REJECTED PRINT NAME: JF

For purposes of this Sublicense, the term "Specified CPU" means the following computer hardware:

Manufacturer	Model
CPU Location	
Site # (1,2,3)	CPU Serial No.
	Network I.D.
	Previous Registration #

1. **Registration.** VAR is obligated to install permanent registrations for Customers. Thereafter, each time the Authorized Software is operated, the screen will display the registered Customer's name. If Customer's name does not appear as the registered Customer, Customer should immediately notify VAR and APPX. If Customer has not received a permanent registration within 60 days of installation, Customer should immediately notify APPX.

CUSTOMER UNDERSTANDS THAT WHEN APPX HAS RECEIVED PAYMENT FROM VAR FOR CUSTOMER'S SUBLICENSE, THEN CUSTOMER IS ENTITLED TO A PERMANENT REGISTRATION SHOWING CUSTOMER'S NAME ON THE SCREEN. (Initials)

2. **Ownership of Authorized Software.** CUSTOMER DOES NOT OWN THE AUTHORIZED SOFTWARE, AND NOTHING IN THIS SUBLICENSE TRANSFERS TO CUSTOMER TITLE TO ANY PORTION OF THE AUTHORIZED SOFTWARE. LICENSORS OWN ALL COPYRIGHTS AND TRADE SECRETS COMPRISING THE AUTHORIZED SOFTWARE. CUSTOMER MAY COPY, MODIFY, DISTRIBUTE, OR OTHERWISE USE THE AUTHORIZED SOFTWARE ONLY AS EXPRESSLY AUTHORIZED BY THIS SUBLICENSE AND ONLY WHILE THIS SUBLICENSE IS IN EFFECT. ANY COPYING, REPRODUCTION, MODIFICATION OR OTHER USE OF THE AUTHORIZED SOFTWARE NOT AUTHORIZED BY THIS SUBLICENSE CONSTITUTES A BREACH OF THIS SUBLICENSE AND UNLAWFUL INFRINGEMENT OF LICENSORS' PROPRIETARY RIGHTS. CUSTOMER MUST SURRENDER ALL COPIES OF THE AUTHORIZED SOFTWARE WHEN THIS SUBLICENSE CEASES TO BE IN EFFECT.

a. Trade Secrets. The Authorized Software remains the valuable trade secret property of APPX or its licensor. Aspects of the Authorized Software that are trade secrets include without limitation, the series of instructions or statements which comprise the computer programs, the systems design, modular program structure, system logic flow, file content, video and report formats, coding technique and routines, file handling and special search techniques, implementation of function keys, video screen and data entry handling, and report generation. Customer shall not disclose or transfer any copy of any portion of any Authorized Software to any person, except as specifically permitted in this agreement. Customer shall not copy, disclose, or transfer the design of nor the trade secrets embodied in any portion of Authorized Software. Customer shall not transfer or disclose any portion of Authorized Software to any person if Customer has reason to believe that such person may attempt to learn, use or disclose the trade secrets embodied in the Authorized Software.

b. Copyright. Each Software Product, regardless of whether it bears notice of copyright, is a copyrighted work owned by APPX or its licensor and is subject to the copyright laws of the United States and of those countries that have ratified the Universal Copyright Convention or the Berne Convention.

3. **License: Use of Authorized Software; Specified CPU(s).** Subject to the terms and conditions of this Sublicense, Customer is granted a non-exclusive and non-transferable sublicense to use the Authorized Software only on the Specified CPU(s), or temporary substitute CPU(s), and only for preparation of data and reports for Customer and for other affiliated organizations, provided that the processing is done by Customer's personnel on Customer's computers or temporary substitute computers. The Authorized Software may not be used by third parties, nor may Customer use the Authorized Software to process data for third parties.

a. Copies and Disclosures. Customer may copy Authorized Software for use as backup copies, at its own expense, provided that Customer (i) includes in and on each partial or complete copy all notices of copyright and proprietary rights appearing in and on the Authorized Software; (ii) makes only that number of copies reasonably required; (iii) establishes a procedure for accounting for each copy at all times; and (iv) destroys or returns to VAR each such copy when it is no longer required. Customer shall ensure that Customer and its employees do not make unauthorized copies, disclosures or transfers of the Authorized Software and to prevent any person from possessing, using, or copying any portion of the Authorized Software except as expressly authorized by this Sublicense. Customer shall periodically inform its employees of Customer's obligations regarding the Authorized Software. Customer agrees to the necessity for and reasonableness of APPX security measures and further agrees not to circumvent any security measures used or instituted by APPX to protect its proprietary rights in the Authorized Software. Customer shall not decode, disassemble, decompile, or in any manner reverse engineer the Authorized Software, under any circumstances whatever.

b. Access Restrictions. Customer shall keep the Authorized Software in a secure place, under access and use restrictions acceptable to APPX and in no event any less strict than those applied to Customer's most valuable computer programs or other proprietary information.

c. **Notification of Unauthorized Possession or Use.** Customer shall notify VAR and APPX immediately of any unauthorized possession, use, or copying, by any person, of any portion of the Authorized Software. In each case in which such unauthorized activity is related to the activities of Customer, Customer shall take all reasonable steps to terminate such unauthorized activity and to retrieve any unauthorized copies of the Authorized Software. In any legal proceeding initiated by Customer pursuant to this paragraph, APPX may assume the prosecution of such proceeding if APPX, in its sole discretion, deems that its interests so require. Customer will cooperate with APPX in any proceeding prosecuted by APPX in protection of APPX's interests under this Section.

4. **Modification.** Customer may modify the Authorized Software for its own internal use only, but may not, even for its own use, modify the Authorized Software or any portion thereof supplied to Customer in object code or in scrambled form. Every modified version of Authorized Software shall continue to be subject to all of the provisions of this Sublicense. Upon termination of this Sublicense, Customer shall completely remove all portions of the Authorized Software from every modified version of the Authorized Software. Customer acknowledges and accepts that its modifications may have little or no utility without the Authorized Software. In no event shall any modification, correction, enhancement, or any other alteration of the Authorized Software reduce or diminish in any way APPX's title to the Authorized Software or APPX's proprietary, trade secret or copyright rights.

5. **Corrections, Enhancements and New Versions.** From time to time, corrections and minor enhancements to the Authorized Software may be provided. Corrections and minor enhancements will be provided free of charge during the Warranty Period, but Customer will bear the cost of installing them, of the media used to transmit them, of new documentation, and of any software conversion work required. From time to time, enhancements of Authorized Software may become available as new versions. Additional license fees may be imposed for new versions, and additional or different license terms may be required for enhancements and new versions. APPX will determine whether an enhancement shall be considered a new version and whether additional fees will be charged, which determination shall be final and completely binding on Customer. New versions may not be compatible with the prior versions. All corrections, enhancements, and new versions will be supplied to Customer through VAR.

THE PROVISION TO CUSTOMER OF ANY SOFTWARE PRODUCT NOT LISTED IN THE SCHEDULE AT THE BEGINNING OF THIS SUBLICENSE (WHETHER BY REASON OF INADVERTENCE OR OTHERWISE), INCLUDING BUT NOT LIMITED TO ANY CORRECTION, ENHANCEMENT OR NEW VERSION, SHALL NOT CONSTITUTE A WAIVER OR ABANDONMENT OF APPX'S COPYRIGHTS, TRADE SECRETS OR OTHER PROPRIETARY RIGHTS THEREIN. AND SHALL NOT AUTHORIZE OR CONSTITUTE ACQUIESCENCE TO CUSTOMER'S ONGOING ACCESS TO OR USE OF ANY SUCH PRODUCT.

From: Wayne T Sasaki on 01/18/2000 02:53 PM
To: Karen M Higa/DAGS/StateHiUS@StateHiUS
cc:

Subject: Re: APPX agreement 

Karen,

Okay
Thanks
wts

Karen M Higa

Karen M Higa

01/18/2000 12:56 PM

To: Wayne T Sasaki/DAGS/StateHiUS@StateHiUS
cc:

Subject: APPX agreement

Hi Wayne,

I compared the new APPX agreement to the old one, and they are basically the same. I think it's better to get AG's comments on the old one and apply it to the new agreement - I'd hate to confuse the issue and have the review take even longer.....

Thanks. Karen

300844